IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 272 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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COMMISSIONER OF INCOME TAX

Versus

ARBUDA MILLS LTD.

Appearance:

1. INCOME TAX REFERENCE No. 272 of 1994
MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 26/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment years 1983-84 and 1984-85:-

"Whether, the Appellate Tribunal is right in law and on facts in directing the I.T.O. to allow the payment made as technical service fee to Mettur Beardshell Ltd. for use of its trade mark as revenue expenditure?"

2. We have heard Mr MR Bhatt, learned Sr. Standing Counsel for the revenue. Though served, none appears for the respondent- assessee.

3. An identical question, except the quantum involved, came to be referred for our opinion in the case of this very assessee in respect of assessment year 1985-86 in ITR No. 127 of 1994.

Following the decision of this Court in CIT vs. Ashoka Mills Ltd. (1996) 218 ITR 526 we have answered the question referred to us in the said ITR in the affirmative i.e. in favour of the assessee and against the revenue.

Following the said decision, our answer to the question referred here is also in the affirmative i.e. in favour of the assessee and against the revenue.

4. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J) (K.A. Puj,J)

zgs/-